

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

XL SPECIALTY INSURANCE COMPANY,	:	Civil Action No.: 1:18-cv-00733
Plaintiff,	:	NOTICE OF MOTION
v.	:	
PRESTIGE FRAGRANCES, INC.,	:	
Defendant.	:	
<hr/>		
PRESTIGE FRAGRANCES, INC.,	:	
Counterclaim-Plaintiff,	:	
v.	:	
XL SPECIALTY INSURANCE COMPANY,	:	
Counterclaim-Defendant.	:	

PLEASE TAKE NOTICE, that upon the June 5, 2018 Motion and Memorandum of Law submitted herewith, Plaintiff and Counterclaim-Defendant XL Specialty Insurance Company (“XL Specialty”) by and through its undersigned attorneys, will move this Court, pursuant to Rules 12(b)(6) and 12(f) of the Federal Rules of Civil Procedure, **on a date and time to be determined by the Court**, for an order:

1. Dismissing with prejudice Defendant and Counterclaim-Plaintiff Prestige Fragrances, Inc.’s (“Prestige”) claim for consequential damages;
2. Dismissing with prejudice Prestige’s claim for attorneys’ fees and litigation costs; and

3. Striking Paragraphs 40 and 75 of Prestige's Second Amended Counterclaim, which contain allegations regarding unrelated, collateral insurance coverage litigation that XL Specialty and its affiliates have been parties to in the past.

Dated: New York, NY
June 5, 2018

Respectfully submitted,

GOLDBERG SEGALLA LLP

/s/Louis H. Kozloff
Todd D. Kremin
711 3rd Avenue, Suite 1900
New York, NY 10017-4013
(646) 292-8700

Louis H. Kozloff
Hillary N. Ladov
1700 Market Street, Suite 1418
Philadelphia, PA 19103
(267) 519-6800

*Attorneys for Plaintiff/Counterclaim-Defendant
XL Specialty Insurance Company*

To: Joshua Gold
Dennis J. Nolan
ANDERSON KILL, P.C.
1251 Avenue of the Americas
New York, NY 10020-1182
*Attorneys for Defendant/Counterclaim-Plaintiff
Prestige Fragrances, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2018, Plaintiff XL Specialty Insurance Company's Motion to Dismiss Claims and Strike Allegations of the Second Amended Counterclaim and Memorandum of Law in support thereof were served by U.S. Mail and email upon counsel of record listed below:

Joshua Gold
Dennis J. Nolan
Anderson Kill P.C.
1251 Avenue of the Americas
New York, NY 10020
jgold@andersonkill.com
dnolan@andersonkill.com

/s/Louis H. Kozloff

Louis H. Kozloff